

Boston University

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Kathleen C. Farrell

By Telefax and U.S. Mail
December 6, 2005

Harry C. Beach, Esq.
Law Offices of Harry C. Beach
30 Walpole Street
Norwood, Massachusetts 02062

RE: Mellen v. Trustees of Boston University, et al.,
Civil Action No. 04-10644-MEL (D. Mass.)

Dear Mr. Beach:

I write in response to your letter of December 5, which raises questions concerning the organization of documents that have been produced, the redaction of personal information of former employees, and the prospect of additional depositions in this case. I address these in turn.

You have raised a number of questions concerning what you have described as "misleading and/or inaccurate" organization. Your concerns are misplaced. The documents are precisely as we described them, and relate to the following individuals:

Employee "A"	BU 0518 – 524	Employee "J"	BU 599 – 601
Employee "B"	BU 0535 – 535	Employee "K"	BU 602 – 603
Employee "C"	BU 0536 – 549	Employee "L"	BU 604 – 606
Employee "D"	BU 0550 – 559	Employee "M"	BU 607 – 610
Employee "E"	BU 0560 – 566	Employee "N"	BU 611
Employee "F"	BU 0567 – 571	Employee "O"	BU 612 – 616
Employee "G"	BU 0572 – 578	Employee "P"	BU 617 – 618
Employee "H"	BU 0579 – 592	Employee "Q"	BU 619 – 632
Employee "I"	BU 0593 – 598	Employee "R"	BU 633 – 644

Your allegations concerning redactions also are misplaced. Defendants first produced documents in response to Plaintiff's Request No. 5 on August 1, 2005. That production was in substantially the same form as the production we made last week. Specifically, as I clearly explained in my cover letter of August 1, names and other personal information were redacted to protect the privacy and confidential health information of former employees. You never raised any question about that production or the necessity of redacting personal information. There is neither a legitimate need nor a compelling duty to disclose confidential information concerning these former employees, including

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information relating to medical issues, health benefits, financial information and details of retirement plans. You state that you want to learn the identity of former employees to "consider their depositions." As discussed in more detail below, discovery in this case has long since closed. There is neither a pending motion nor an order to reopen discovery to permit further depositions. Moreover, the testimony of these former employees has no bearing whatsoever on Ms. Mellen's claims, and you have not suggested otherwise.

Your letter inaccurately states that the University declined to agree to a confidentiality order. Again, you are mistaken. I am compelled to point out that it was you, not I, who declined to enter into a confidentiality order to protect confidential information. I attach our e-mail correspondence from June 2005 on that subject.

Finally, you state that you intend to consider depositions of the former employees and the "relevant Keeper of these records," and a further deposition of George Snowdon. Discovery in this matter closed last summer,¹ and has not been reopened. At no time during the lengthy discussions about Defendants' production of documents did you suggest that additional depositions would be necessary. You never noticed a recordkeeper deposition. Further, you had the opportunity to depose Mr. Snowdon at length, and you completed that deposition without any request or reservation of rights to reopen his deposition at a later date should additional documents be produced. Even the motion to compel does not mention any need for further depositions based on any documents produced, let alone request that discovery be reopened for that purpose. Similarly, the Court's order does not purport to extend or reopen discovery to permit additional depositions to be taken.

Under these circumstances, the additional discovery you seek is unwarranted and the motion for sanctions you have threatened to file seems ill-advised. If you have any other specific issues or questions concerning the documents most recently produced please do not hesitate to call me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Crystal D. Talley".

Crystal D. Talley
Enclosures

¹ Discovery closed on June 24, 2005 and was extended by stipulation dated May 16, 2005 until July 6, 2005 "for the sole purpose of accommodating plaintiff's deposition of the defendant Drolette."

Talley, Crystal D

From: Talley, Crystal D
Sent: Thursday, June 09, 2005 9:24 AM
To: 'attybeach@aol.com'
Subject: RE: Dennis Deposition

Attachments: Confidentiality Protective Order.doc



Confidentiality
Protective Ord...

Hi Harry,

9:30 is fine. We'll see you then. Given that Ms. Dennis is not a party, can we enter into the attached confidentiality order? If any personal details are discussed at the deposition she'd prefer that they be kept confidential to the extent possible.

Best regards,
Christy

-----Original Message-----

From: attybeach@aol.com [mailto:attybeach@aol.com]
Sent: Thursday, June 09, 2005 8:13 AM
To: Talley, Crystal D
Subject: Dennis Deposition

Christy,

Can you and Ms. Dennis start at 9:30 a.m. tomorrow?

Harry

Law Offices of Harry C. Beach
30 Walpole Street
Norwood, MA 02062

Office: 781.255.5573
Cell: 617.968.4531
Fax: 781.769.6989
Email: AttyBeach@aol.com
HBeach@HarryBeach.com
Domain: HarryBeach.com

Talley, Crystal D

From: attybeach@aol.com
Sent: Friday, June 10, 2005 7:04 AM
To: Talley, Crystal D
Subject: Re: Dennis Deposition

Christy,

Since our email exchange yesterday, we spoke to reschedule the Dennis deposition to Wed. June 15, 2005 at 10 a.m.

I'll look at the confidentiality agreement over the weekend.

Harry

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-----Original Message-----

From: Talley, Crystal D <ctalley@bu.edu>
To: attybeach@aol.com
Sent: Thu, 9 Jun 2005 09:24:09 -0400
Subject: RE: Dennis Deposition

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HBeach@HarryBeach.com

Domain: HarryBeach.com

Talley, Crystal D

From: attybeach@aol.com
Sent: Monday, June 13, 2005 10:19 AM
To: Talley, Crystal D
Subject: Proposed Confidentiality Agreement

Christy,

I do not intend to use anything Ms. Dennis may say at her deposition outside the scope of this litigation. I hope this representation is sufficient to allay her concerns.

Also, as represented to you before, I do not intend to inquire into Ms. Drolette's divorce proceedings and any related custodial dispute.

Harry

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